

ORDINANCE NO. 2009-08-055

AN ORDINANCE RELATING TO THE ANNEXATION OF APPROXIMATELY THIRTY EIGHT ACRES OF UNINCORPORATED PROPERTY LOCATED ADJACENT TO THE NORTHERN BOUNDARY OF THE BELLINGHAM CITY LIMITS AND COMMONLY KNOWN AS THE QUEEN MOUNTAIN ANNEXATION; ASSIGNING CITY LAND USE AND ZONING DESIGNATIONS.

WHEREAS, on February 12, 2008 Whatcom County Council added the Queen Mountain Annexation area to Bellingham's Urban Growth Area (UGA) and rezoned the area from R5 to URMX to allow for urban densities at 6 to 10 units per acre, consistent with state law and, therefore, the subject area is eligible for annexation; and

WHEREAS, on July 22, 2008 the property owners in the annexation area held the required neighborhood meeting to discuss the annexation proposal; and

WHEREAS, on August 4, 2008, the owners of property within the subject area filed a proper and sufficient Notice of Intent to commence annexation proceedings pursuant to RCW 35.13.125; and

WHEREAS, on September 29, 2008 the Bellingham City Council held a public meeting and approved Resolution 2008-34, thereby initiating the review process for this annexation request, subject to adopting City land use designations, zoning and assumption of existing City indebtedness; and

WHEREAS, on September 20, 2008, the property owners within the annexation area submitted the required seventy-five percent petition to the City consistent with state law; and

WHEREAS, the City forwarded the petition to the Whatcom County Assessor, whereby the Assessor found the petition to comply with state law and provided a Certificate of Sufficiency to the City according to RCW 35.21.005; and

WHEREAS, on March 10, 2009, the City forwarded the Notice of Intention to the Whatcom County Boundary Review Board for its 45-day review of the annexation proposal; and

WHEREAS, in April 2009 the Bellingham City Council and Whatcom County Council approved Amendment #19 to the Interlocal Agreement between the City and Whatcom County to include the Queen Mountain Annexation; and

WHEREAS, on May 3, 2009 the Whatcom County Boundary Review Board deemed the Notice of Intention to Annex as described in the BRB file #2009-03 approved; and

WHEREAS, both the City of Bellingham and Whatcom County have established goals and policies to protect land within the Lake Whatcom Watershed and agricultural lands from development; and

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

WHEREAS, in April 2009 the City of Bellingham and Whatcom County Planning Directors jointly signed a Memorandum of Agreement to recommend that property owners within the annexation purchase transfer of development rights (TDR) as a condition of annexation; and

WHEREAS, the property owners within the Queen Mountain Annexation area agree to purchase 1 transfer of development rights (TDR) and/or purchase of development rights (PDR) for every 5 acres of land in exchange for annexation; and

WHEREAS, on June 29, 2009 the Bellingham City Council approved Ordinance 2009-06-037 which established a "fee in lieu of" option whereby property owners/developers in receiving zones could purchase development rights (PDR) to obtain additional residential density by paying an established fee to the City's Lake Whatcom Watershed Property Acquisition Program Fund; and

WHEREAS, on August 10, 2009 the Bellingham City Council held a public hearing and determined the annexation is consistent with the State Growth Management Act (GMA), and the policy direction in Whatcom County's Comprehensive Plan, the Countywide Planning Policies, the Bellingham Subarea Plan as revised, and Bellingham's Comprehensive Plan; and

WHEREAS, at the conclusion of the hearing, the Bellingham City Council approved the Queen Mountain Annexation ordinance.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The property commonly known as the Queen Mountain Annexation as legally described in Exhibit A is hereby annexed to the City of Bellingham.

Section 2. The area annexed herein shall assume its proportional share of the existing indebtedness of the City of Bellingham.

Section 3. A new Area 12 is added to the King Mountain Neighborhood Plan as shown in Exhibit B.

Section 4. A new Area 12 is added to Bellingham Municipal Code 20.00.095 - King Mountain Neighborhood Table of Zoning Regulations as shown in Exhibit C.

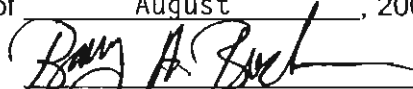
Section 5. The City of Bellingham zoning map for the King Mountain Neighborhood is amended as shown in Exhibit D.

Section 6. The King Mountain Neighborhood Comprehensive Plan Land Use Map is amended as shown in Exhibit E.

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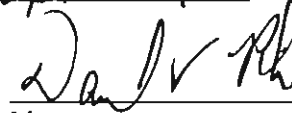
Section 7. The property owners of the Queen Mountain Annexation area agree to purchase 1 transfer of development rights (TDR) and/or purchase of development rights (PDR) for every 5 acres of land annexed into the City as shown in Exhibit F.

PASSED by the Council this 24th day of August, 2009.



Council President

APPROVED by me this 2nd day of September, 2009.



Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published:

August 28, 2009

City of Bellingham
City Attorney
210 Lottie Street
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EXHIBIT A

RE: QUEEN MOUNTAIN ANNEXATION AREA

LEGAL DESCRIPTION:

BLOCK 17, "MAP OF GARDEN ADDITION TO THE TOWN OF WHATCOM, WASHINGTON TERRITORY," WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED IN BOOK 1 OF PLATS, PAGE 29, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

TOGETHER WITH ALL OF JUNE STREET AND MARS STREET ABUTTING

King Mountain Neighborhood Plan

Area 12

This area was annexed into the City in 2009 and is approximately 38 acres in size. The eastern portion of Queen Mountain rises from the center of the area, which contains slopes that range between 15% to 40% with some areas exceeding 40% to 100%. The southwestern portion of the area contains gradual slopes with some relatively flat areas.

The area lies within the Silver Creek watershed and within Bear Creek sub-basin. In 2003 a wetland reconnaissance was performed on areas north and adjacent to East Bakerview Road, which revealed wetlands in the northeastern and southeastern portions of this area.

This area contains "special regulations" outlined in the Bellingham Municipal Code Table of Zoning Regulations, which allows 25% of the total allowed dwelling units per site area to be a mix of multi-family units through the planned residential development process.

Land Use Designation: Single Family Residential, Medium Density

King Mountain Neighborhood Table of Zoning Regulations

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
12	Residential Single	Detached, cluster, cluster attached and cluster detached; mixed; limited duplex and multi-family (see special regulations)	7,200 sq. ft. per dwelling unit for detached and cluster lots, up to 4,300 sq. ft. per dwelling unit using cluster bonus provisions in the BMC 18.32 or adopted City TDR program or the "fee-in-lieu-of" option. Under the fee-in-lieu-of option, a property owner/ developer can purchase additional density by paying a fee to the City's Lake Whatcom Watershed Property Acquisition Program (LWWPAP). * The fee for density bonus is calculated on a per dwelling unit basis according to a fee schedule established by the City Council. One unit of additional	Provide public trails as indicated in the Bellingham Comprehensive Plan.	Improvement of Iron Gate Rd. to full secondary arterial standards. Improvement of Montgomery Rd. to a collector arterial standard residential street or greater prior to development of property using Montgomery Rd for access Sewer mains will need to be extended to provide service. Upgrades to the James Street Sewer Pump Station to serve existing and future lots may be required. Water mains will need to be extended to provide service, additional water main connections may be required to Hannegan Rd.	Duplex and multi-family units shall require planned residential development approval under BMC 20.38 and shall not exceed 25% of the total allowed dwelling units for the entire site. Duplex and multi-family building permits shall not be issued until at least 50% of the single family homes on site have been constructed. No more than 4 single family attached dwelling units allowed. *The density bonus may exceed the 50% total maximum under BMC 18.32 but density shall not exceed 4,300 sq. ft. per dwelling unit.

density will be allowed for each unit purchased through use of this option.

An applicant's submittal for land use review shall include a letter from the Bellingham Finance Department documenting the amount to be contributed to the LWWPAP.*

Lots not created by cluster subdivision:

5,000 sq. ft. minimum detached lot size and a maximum density of 7,200 sq. ft. per unit.

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham - Planning &
Community Development Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Covenant to Purchase or Transfer Development Rights in exchange
for annexation to the City of Bellingham

REFERENCE NUMBER OF RELATED DOCUMENT: Tidemark # MIS2008-00062.

GRANTOR(S): Eric J. Hitz and Robin M. Hitz

GRANTEE(S): City of Bellingham

ABBREVIATED LEGAL DESCRIPTION:

Block 17, "Map of Garden Addition to the Town of Whatcom, Washington Territory, "Whatcom County Washington, as per the map thereof, recorded in book 1of Plats, page 29, in the Auditor's Office of said County and State. Situated in County of Whatcom, State of Washington.

ADDITIONAL LEGAL DESCRIPTION ON PAGE(S) N/A OF DOCUMENT.

ASSESSOR'S TAX/PARCEL NUMBER(S): 380308 336210 0000

**COVENANT TO PURCHASE OR TRANSFER DEVELOPMENT RIGHTS
IN EXCHANGE FOR ANNEXATION TO BELLINGHAM**

I (We) the owner(s) of property located within the Queen Mountain Annexation Area and legally described as: **Block 17, "Map of Garden Addition to the Town of Whatcom, Washington Territory, "Whatcom County Washington, as per the map thereof, recorded in book 1of Plats, page 29, in the Auditor's Office of said County and State. Situated in County of Whatcom, State of Washington** acknowledge that both the City of Bellingham and Whatcom County have established goals and policies to protect land located within the Lake Whatcom Watershed and agricultural lands from development. I (We) acknowledge these goals and policies are in place to protect the valuable natural resources and the citizens of our County; and therefore, in exchange for annexation to Bellingham, I (we) do agree to purchase or transfer one development right (DR) for every five acres of my (our) above described property annexed to Bellingham. For property of more or less than five acres, DRs shall be prorated for fractional shares of my (our) property.

These DRs may be transferred from either City or County TDR sending zones or may be purchased from the City for land in the Lake Whatcom watershed through the Purchase of Development (PDR) program of the City. The DR or portion thereof, may be transferred to other property owners. Development rights purchased prior to this covenant may be used

to meet this requirement. The development rights may be used as a density bonus to increase the number of dwelling units from 6 up to 10 units/acre as allowed by the underlying zoning, at the owner's sole discretion.

The purchase or transfer of development rights shall occur prior to the approval of development of my (our) land. Development shall mean any land use application approval that results in the division of land, new residential units and/or a conditional use permit.

This covenant will be released when either 1) the development rights are purchased or transferred consistent with this covenant or 2) if my (our) land is not annexed into the City of Bellingham prior to the end of the year 2009. This covenant shall run with the land, is for the benefit of the general public and shall be binding upon my (our) heirs, devisees, executors, administrators, successors and assigns. This covenant shall not be revoked without prior written consent of the City of Bellingham.

EXECUTED this 3rd day of August, 2009.

[Handwritten signature of Eric J. Hitz]

Eric J. Hitz

[Handwritten signature of Robin M. Hitz]

Robin M. Hitz

STATE OF WA)
COUNTY OF Whatcom)SS

I certify that I know or have satisfactory evidence that Eric J. Hitz signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

8/3/09

Date

(Seal or stamp)



[Handwritten signature of Heather A. Wolf]

SIGNATURE OF NOTARY PUBLIC

Heather Wolf

NAME PRINTED

Attorney

TITLE

6-09-2010

DATE APPOINTMENT EXPIRES

STATE OF WA)
)SS
COUNTY OF Wnatwom)

I certify that I know or have satisfactory evidence that Robin M. Hitz signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

8/3/09

Date

Heather Wolf

SIGNATURE OF NOTARY PUBLIC

Heather Wolf

NAME PRINTED

Attorney

TITLE

6-09-2010

DATE APPOINTMENT EXPIRES

(Seal or stamp)

